



Lamoine Board of Selectmen

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Minutes of February 11, 2010

Chair Jo Cooper called the meeting to order at 7:01 PM

Present were: Selectmen Kermit Theall, Gary McFarland, S. Josephine Cooper, Richard Fennelly Jr., Cynthia Donaldson; Administrative Assistant Stu Marckoon, Kathleen DeFusco, Gene Gray (Axiom Technologies), Nelson Geel (Axiom Technologies), Merle Bragdon (CTV Committee), Jackie Weaver (Ellsworth American), Jon Morren (RSU #24 Rep), John Jerabek, Neila McIntyre, Ray Bachelder, Grace Ngiecka, Gregory Spring, and Telly Salley.

Agenda Review – Three addenda items were noted. There was no change proposed to the printed agenda.

Minutes of January 21, 2010 - Several minor written corrections were offered by the Selectmen. Cynthia offered clarification of language in discussion with Superintendent Webster. Jo moved to approve the minutes with the corrections. Richard 2nd. **Vote in favor was 5-0.**

Expenditure Warrant 15 – Selectmen signed warrant 15 for \$98,912.25. Stu reported that the latest school renovation bill was on the warrant, along with construction of the transfer station privy, and two payrolls. Cynthia asked about the records preservation bill. Stu said several valuation books were sent for preservation, and \$1,000 had been encumbered for that from the previous year, along with the current budget. Selectmen also asked that another hand sanitizer unit be installed at the transfer station.

Cash & Budget Report – There were no questions about the written report.

Checking Account Reconciliation – Selectmen signed a statement expressing satisfaction with the checking account reconciliation.

Returnables Applications – Jo reported the 8th grade class and the Historical Society have agreed to swap months. All the applications received were approved as recipients and will be assigned a month in order of their receipt.

Jo said the 8th grade class would meet with the Selectmen on March 4, 2010 to talk about their class trip plans.

Meeting with Axiom Technologies – Nelson Geel of Axiom Technologies introduced himself and explained that his company is a 5-year old internet service provider. He said they build rural broadband systems and are based in Machias. He said their mission is to put broadband service where it doesn't exist.

Mr. Geel said the un-served portion of Maine has shrunk, but there are still parts of the state that are underserved. He said change has occurred and the state is getting involved, and there are politics involved. He said Lamoine expressed interest in

providing broadband service to unserved portions of town. He said a few companies are providing that service, and Axiom is the largest, closest. He said the ConnectME program is available to assist with that effort and explained how that program works.

Mr. Geel said a town or a company can apply for a ConnectME grant by demonstrating need. He said most applications are done by companies. He said there is a rebuttal phase to applications and if a grant is awarded, the company has one year to get the service going. He said it's a successful program and many towns now have broadband service where none existed before. He said between 70% and 90% of Washington County now has broadband service available.

Mr. Geel said they submitted a letter of intent for Lamoine with ConnectME a couple of weeks ago. He explained the rebuttal phase where incumbent providers can say they do not wish the state to provide funding to competitors. He said that after the rebuttal phase, a grant in full is submitted. He said a decision is likely at the end of March. He said a company called Premium Choice said it would likely rebut the application. Stu said he'd received a call from Premium Choice the day before. Mr. Geel urged the board to contact ConnectME in Augusta with questions. He said an incumbent provider would have to have a 20% overlap in the community or have a standing plan to launch a project within 45 days. He said he does not know where Premium Choice stands. He said the deadline for rebuttal was next Wednesday, and he expects a rebuttal would be filed. He said if it is not, they could move forward with the full grant.

Mr. Geel said if a rebuttal is filed, they would need to discuss further with the town what it wants to do. He said they could still submit a grant but it would not likely be approved. He said if an incumbent provider says they will complete the system within a year, the ConnectME board has to believe them and deny the grant. He said it's a very competitive grant year, and there is not enough money to fund all the submitted projects. He said only about half would receive grants. He said that's not a bad thing for the community, if the end result is more broadband coverage.

Mr. Geel highlighted the differences between the Axiom system and the Premium Choice system. He said the goal of Axiom is to have 90% of the homes in a community with access to broadband, and at minimum 70%. He said private investors have no commitment number. He said there are no repercussions if Premium Choice were not to build, and there is no state oversight of the private company because they are not using public funding. Jo asked if the Three Ring Binder program is separate. Mr. Geel said it is totally separate.

John Jerabek asked what opportunity the public has to provide input into the ConnectME decision. Mr. Geel said quite a lot, but there was a caveat, and he explained how the board meetings work. He said the ConnectMe board is very receptive to the public, but their authority is limited by statute. He said there is protection built in for incumbent providers. He said a standard deployment hits about 50% of a municipality. He said a satisfactory end result is 90% penetration. He said that most towns that Axiom serves are those that were underserved.

Kermit asked if this is a wireless system. Mr. Geel said the bulk is wireless because that is the most economically effective tool. He said there is no TV service built in. Cynthia asked about the 50% match. Mr. Geel said they've never asked any town for money. Richard said it appears there will be a problem if a private venture declares it will put in a system but faces no penalty for non-performance. He asked if this is a year later, would the board not give much credence to that company. Mr. Geel said many people have those thoughts.

Jon Morren asked if there have been cases of approval if the rebutter is reputable. Mr. Geel said no. Grace Nagiecka asked when a rebutter might get state funding. Mr. Geel said there is no state funding for a rebutter and explained the program. Kermit said people deserve internet access, and if he had the authority he would start the paperwork to get a grant. Mr. Geel said the town or company could still submit a grant. There was a brief discussion about who Premium Choice is and the story of Axiom Technologies. Mr. Geel said they could not get 90% coverage in Lamoine with just one tower. He said there would have to be some mini transmitters.

Cynthia asked if other broadband users could switch to Axiom. Mr. Geel said they have not developed in areas where there is broadband available. He said crossing the Washington County line is the first experience where there is existing broadband. He said ConnectME prefers collaboration between providers. He said the one company they have not been successful in collaboration is Premium Choice.

Mr. Jerabek asked for an explanation on the type of broadband Axiom offers, and Mr. Geel provided that. Jo said she appreciated Axiom's time and said the process is frustrating. Mr. Geel again encouraged folks to contact ConnectME. Jo asked if residents should talk to ConnectME. Mr. Geel said that is desirable, especially if new ideas are shared. Jo said the Selectmen are looking at business development and broadband is a big issue. She said the Board wants broadband expansion to happen, and residents are frustrated when they cannot get broadband.

Mr. Geel said Axiom would need land, a tower and a permit, and will need the town to work with them. He encouraged the town to stick up for itself. Jo asked what the next step is. Mr. Geel said it's out of their hands. Kermit said he would be interested in inviting the other company to meet with the Board. Mr. Geel said his company has never asked a town for money or a contract. He said they're just asking for help, possibly a tower on town owned land. A short discussion followed regarding engineering, how many mini transmitters would be needed, and the number of cable subscribers. Merle Bragdon asked if Axiom is able to expand into Lamoine without a grant. Mr. Geel addressed issues of private funding, the economics of the project, and engineering aspects.

Cell tower / power line easement – Stu explained that Bangor Hydro would be purchasing the power line running into the cell phone tower and needed the easement signed by the town to run the power lines. Jo moved to sign the easement. Gary 2nd. **Vote in favor was 5-0.** Stu reported that the power poles had been set and the entrance meters installed and he expected the tower to go up soon.

Zero Sort Recycling – Stu reported that Pine Tree Waste had come back with a different offer; a flat rate of \$7,000 and no processing fee. Richard asked why the town would not be interested. There was a discussion about how much would actually be saved. Stu said he was not sure whether cardboard was included in the deal. He said MRRA had asked to see the offer and he was not sure what the reaction would be.

Town's Birthday – Cynthia noted that today was the official 140th anniversary of the founding of the Town of Lamoine. She brought cake, and there was a brief recess to consume same.

Census – Stu noted that the US Census Bureau is conducting potential employee testing at the town hall on Thursdays. Jo signed a form stating that the town boundary had not changed.

Town Report – Stu reported he'd added more pictures. Jo said historic information had still not been inserted. Stu said the town meeting warrant and budget are the final pieces to go in.

Assistance to Firefighting Grant – Stu reported that the fire department made it past the first round in a request for lift bags and a cutting tool.

Town Meeting – Referendum Voting – Jo said it's ultimately up to the town, but the Board can make a decision. Richard handed out a graph depicting the turnout at referendum and open town meeting. Jo said she and Richard do not agree on the issue, but a way can be figured out to come to some kind of decision. Jo said she's not sure what's required to change the way the town is governed, but it's up to the town. She said if there was a strong feeling that the town doesn't want the way we have now, it would be up to the town. She said she feels the town has been operating well. She said her philosophy is that if it isn't broke, don't fix it. She said there is increased participation, and the cable TV channel helps a lot.

Jo said when she first ran for the office, all she knew was what she heard at open town meeting. She said she feels people are better informed, thanks to more committees and people involved. She said she heard there was a petition and she respects that, and people have a concern about it. She said she has concerns about having a straw vote because she's not sure that people would understand what they are voting on, and the outcome would be used as proof for a change.

Jo said we all want more participation in government, but she is not sure if this is the way to go about it. She said other towns have a hybrid of a referendum/open town meeting format. She said maybe a dollar threshold could trigger a referendum question. She said a question is whether a 30-question ballot would actually increase participation. She said this is a fundamental change, and the Board needs to go about it carefully. She said she's not convinced there is a groundswell for such a change, and she thinks there is a political agenda behind it.

Richard said it could be interpreted that there is a political agenda to prevent referendum voting. He said he prefers a referendum vote in order to have more participation. He said he doesn't understand the opposition to it. He said he wants to know how the town would prefer to vote. He said he thinks an advisory question would give an indication. He explained the chart he handed out which compares the turnout for a referendum to the attendance at open town meeting. He said he believes the reduction in open town meeting numbers is because people don't want to go out at night.

Jo said she understands where Richard is coming from, but that she doesn't think a ballot question would give the board anything more than another number. She said there needs to be a process leading up to an advisory vote. She said maybe a study group could fully discuss the issue, and then have the town take a straw vote. Richard said he opposes studying the issue to death. He said it's simple; ask the voters what they want.

Kermit said there could be a special meeting to discuss the issue, and there should be discussion about the matter before voting on it. Richard said not everyone who wants to vote on this would attend an open meeting. He said he agreed there should be an open discussion, but voting by referendum allows for absentee balloting. Kermit said the town could have an open forum.

Richard said there was a petition brought a few years ago to bring the town to enact a referendum voting ordinance. There was a discussion as to what the petition meant. A heated discussion followed on the merits of a straw vote.

Jo asked why there was an urgency to vote on this now. Richard said there isn't, but the town meeting is before the Board and it's a good opportunity to ask the town. Jo said there are things in common, but she doesn't want to pit one side against the other. Another heated discussion followed.

Kermit said there should be a town discussion. Richard said a public hearing would only attract those that go to town meeting. Kermit said there is a need to educate on this issue. A discussion followed on what the process should be for public participation.

Cynthia said she favors open town meeting, but she agrees that the Board should get an opinion from the town. She said sometimes people say no on a ballot, but it's difficult to understand the reason. She said the Board needs to get a real feeling about what the town thinks, and it would be beneficial to spend time between now and April doing some sort of presentation on this.

Jo said the graph presented by Richard is powerful, but there are other issues at play. She said she would be up for talking about the issue instead of a yes/no vote. Cynthia said she wants the feedback from the town. Richard said he wants to know how the town wants to do it. Gary said people tell him they don't want to turn the town upside down. He said it's just a method of voting. He said there should be some education on the pros and cons of referendum voting. Richard said he understands why there is interest. Gary said the supporters of referendum voting don't seem to have an axe to

grind. Richard said those who do not spend their winters in Lamoine are unable to vote at an open meeting. Kermit said he would like to engage those who are away for the winter as well.

Jon Morren said a referendum does not allow for discussion, even with a public hearing. He said if there is a 30-question ballot it might be time to talk about a charter, and whether a charter commission might be appropriate. He said this is not that simple. A discussion followed on what other towns do, the potential number of ballot questions, and absentee balloting.

Richard said the town is in the ideal position to explore what it wants. He said the Selectmen have the authority to determine the method of voting. He said he can't presume to tell the town how to vote unless he knows how it wants to. He said not having a charter is a plus. A short discussion followed regarding a charter and a fallback position if budget votes fail at referendum.

Jo said the Board is interested in getting more ideas. She said there needs to be a process prior to putting out a non-binding vote. Richard said the voters who favored him expect him to represent the majority of voters, not a vocal minority. Jo said the supporters of voting by referendum seem to be a vocal minority. Richard said those who show up for town meeting are a vocal minority, and explained that fewer than 140 people show up at town meeting out of approximately 1,400 registered voters. .

Jo said the Board needs to discuss whether to have a straw vote at the upcoming town meeting. Richard said he got heated up earlier because he was concerned that action would be delayed to "some point in time". He said he could not support the petition presented a few years ago but said had he would bring up the issue to the board, and that is what he's doing. He said this discussion seems to be "more of the same". He said he would favor pursuing this in a diligent fashion and maybe ask voters in the fall. He said he doesn't want to see this go away, because there are enough people who have an interest. Jo said a petition could always be presented.

Richard moved to take the action necessary to prepare for placement of a question on the November ballot. There was a discussion about who was responsible to educate the public. Cynthia said she would favor a facilitated meeting. Stu said when listening to what Cynthia said earlier, it sounded like a variety of responses might be preferred, and that is problematic. Richard said that he believes it is the Board of Selectmen's responsibility to help the public understand the matter.

Mr. Morren asked if this would set out a process to roll the question out to the public ahead of a vote. *Gary 2nd Richard's motion.* **Vote in favor was 4-1 (Theall opposed)**

Town Meeting Warrant – Richard said the board needs to talk regarding the RSU's role in regard to a contract with MDI High School. He said that issue is not on the proposed warrant. Stu said that is correct because there are no figures, and there probably won't be by April. Richard said he is opposed to a contract. He said if the RSU does enter some sort of agreement, it should be conditioned on town meeting approval, especially

with a 10% debt service factor. He said he was troubled that RSU 24 could unilaterally take action that would result in Lamoine taxpayers incurring property taxes.

RSU 24 representative Jon Morren said he couldn't guess whether a contract would pass or not at the RSU level. He said outside of the debt service question, a contract would clarify the roles and responsibilities of MDI High School and the RSU. He said the RSU is the only entity that can bargain for such agreements. He said it is a contentious issue. He said he doubts it would pass, but if it does, it would not pass with debt service included. He said any agreement would come back to the town to decide whether the town is willing to pay the difference.

Mr. Morren said there has to be a 2-year notice from MDI to Lamoine students that they would no longer be accepted. He said without tuition students, MDI could conceivably become a class "C" school. He said the parents of MDI High School students feared that the school would close the door to Lamoine. He said he doesn't know what will come from all this, but there will be an opportunity for the town to have a say on it. He said there would have to be a special town meeting. A short discussion followed on the timing of a town meeting and tuition figures.

Mr. Morren said he would like to hear the feelings from the Selectmen. Richard said he would prepare a petition to ask the RSU board to cease and desist from entering a contract. A short discussion followed on the motivation for a contract. Mr. Morren said he supports the opportunity for school choice. Richard said he favors choice, just not paying for the difference outside of the RSU. A short discussion followed.

No other changes were proposed to the town meeting warrant.

Local School Advisory Committee Date – Stu said the committee meets on February 25, 2010, and Cynthia had concern as to whether that would be an appropriate time for the Selectmen to meet with the advisory committee. Jo said the purpose of the meetings was to touch base with the various committees. Mr. Morren said there was some suggestion that the meeting did not have to take place. He said there was no set meeting schedule for the advisory committee. He said maybe the Selectmen could shoot for something in March or April. He said the February 25th meeting would be an open forum. He said Principals Val Perkins and Mike Hammer and Superintendent Bill Webster are putting that together. Cynthia explained the meeting's purpose.

General Purpose Aid – Richard said the numbers show a 5.1% reduction in state funding for the RSU. He said that's a misleading comparison by the state. He said the actual cut is 17.4%, which is also misleading. Mr. Morren said next year there will be painful cuts necessary to avoid a tax increase. He said a \$1.2 million dollar RSU cut will be needed. Richard said it looks like a 9% cut for next year. Mr. Morren said they're getting their first look at the budget soon. Richard said the penalty clause elimination is another potential hit. He said he's opposed to a contract with MDI because that would increase the local property tax rate.

Richard said students in RSU 24 communities attending MDI reduce the number of students in the RSU, which negatively affects the state funding formula. A short discussion followed. Jo asked when the committee would likely make a decision. Mr. Morren said it would be March 17, 2010.

Shellfishing Ordinance – Richard said he attended a meeting on Tuesday to complete the draft ordinance. He said there is an urgency to pass at the March town meetings so licenses can be sold this spring. He said the ordinance is pretty much in the form that will be voted on. Jo asked if there would be committee members at meetings to answer questions. Richard said he would answer the questions in Lamoine. He said there was a modest change in the latest proposed ordinance. He said the 1st year of licenses would not require conservation time prior to obtaining a license as it's hoped to start selling this year. He said license holders would have to put in 6-hours by the end of 2010. He said a recreational peck license would be \$5.00.

Stu asked if the town office staff would be selling licenses. Richard said they would. Stu said there would have to be a lot of work done to create a database, generate a license, and other issues. A brief discussion followed.

Communication from Robert Sharkey – Jo moved to send a letter and materials requested under the Freedom of Access Act to Mr. Sharkey. Cynthia 2nd. **Vote in favor was 5-0, Selectmen signed the letter.**

Offer from Pepsi Cola – Stu suggested that the dedication of the sculpture project might qualify for this offer. Cynthia said she would look it over.

Personal Property Abatements – Richard moved to proceed with abatements for personal property tax as outlined by the treasurer. Cynthia 2nd. **Vote in favor was 5-0.**

Other - Cynthia said she would like to see a future agenda item be information to hand out for a referendum on voting methods.

Kermit said he'd received a concern about the privy at the transfer station not being lined with stainless steel. Stu said he checked, and there are no state mandated specifications for an outhouse.

Stu reported that a structure fire the previous day on Chickadee Lane raised several code enforcement questions, and he has written to the Code Enforcement Officer for follow up.

Citizen of the Year – The board reached a consensus on whom to name the 2010 Citizen of the Year to be recognized at Town Meeting.

There being no further business, the meeting adjourned at 10:05 PM.

Respectfully submitted,

Stu Marckoon, Adm. Asst.

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